

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
MADERA IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM HIDDEN UNIT

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3 BUREAU OF RECLAMATION
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6 AND
7 MADERA IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM HIDDEN UNIT

10 THIS CONTRACT, made this 14th day of February, 2001, in pursuance generally
11 of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but
12 not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939
13 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68),
14 October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of
15 the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal
16 Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United
17 States, and MADERA IRRIGATION DISTRICT, hereinafter referred to as the Contractor, a public
18 agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its
19 principal place of business in California;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley Project,
23 California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation,

24 municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and
25 distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the
26 Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

27 [2nd] WHEREAS, pursuant to Title II of the Flood Control Act of October 23, 1962
28 (76 Stat. 1180), and supporting documents, the United States constructed Buchanan Dam on the
29 Chowchilla River (thereby creating Eastman Lake), hereinafter collectively referred to as the Buchanan Unit,
30 which is operated by the Corps of Engineers for flood control, recreation and other incidental uses; and

31 [3rd] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the United
32 States has acquired water rights and other rights to the flows of the Fresno River, including without limitation
33 the permits issued as the result of Decision 1407 by the California State Water Resource Control Board
34 and the contracts described in subdivision (n) of Article 3 of this Contract, pursuant to which the Contracting
35 Officer develops, diverts, stores and delivers Project Water stored or flowing through Hensley Lake in
36 accordance with State and Federal law for the benefit of Project Contractors in the Hidden Unit; and

37 [4th] WHEREAS, the Contractor and the United States entered into Contract
38 No. 14-06-200-4020A, as amended, provides the Contractor the right to the entire yield from the Hidden
39 Unit available for conservation purposes from August 5, 1962, to February 28, 1994; and

40 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection 3404(c)(1)
41 of the Central Valley Project Improvement Act (CVPIA), subsequently entered into interim renewal
42 contract(s) identified as Contract No(s). 14-06-200-4020A-IR2, IR3, IR4, and IR5, the current of which is
43 hereinafter referred to as the Existing Contract, which provided for the continued water service to the

44 Contractor from December 1, 2000, through February 28, 2001; and

45 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim and
46 existing long-term Project Water service contracts following completion of appropriate environmental
47 documentation, including a programmatic environmental impact statement (PEIS) pursuant to the National
48 Environmental Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA
49 and the potential renewal of all existing contracts for Project Water; and

50 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
51 environmental review necessary to provide for long-term renewal of the Existing Contract; and

52 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing Contract,
53 pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the State of
54 California, for water service from the Central Valley Project; and

55 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its
56 obligations under the Existing Contract; and

57 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting Officer
58 that the Contractor has utilized the Project Water supplies available to it for reasonable and beneficial use
59 and/or has demonstrated projected future demand for water use such that the Contractor has the capability
60 and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made
61 available to it pursuant to this Contract; and

62 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by urban

63 and agricultural areas within California for more than fifty (50) years, and is considered by the Contractor as
64 an essential portion of its water supply; and

65 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
66 Contractor's, depend upon the continued availability of water, including water service from the Central
67 Valley Project; and

68 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to
69 pursue measures to improve water supply, water quality, and reliability of the Project for all Project
70 purposes; and

71 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to provide
72 for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of the Central
73 Valley Project as required by law; to guard reasonably against Project Water shortages; to achieve a
74 reasonable balance among competing demands for use of Project Water; and to comply with all applicable
75 environmental statutes, all consistent with the legal obligations of the United States relative to the Central
76 Valley Project; and

77 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative relationship
78 in order to achieve their mutual goals; and

79 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
80 long-term renewal contract pursuant to Federal Reclamation law on the terms and conditions set forth
81 below;

82 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it
83 is hereby mutually agreed by the parties hereto as follows:

84 DEFINITIONS

85 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the
86 intent of the parties as expressed in this Contract, the term:

87 (a) "Calendar Year" shall mean the period January 1 through December 31, both dates
88 inclusive;

89 (b) "Charges" shall mean the payments required by Federal Reclamation law in addition
90 to the Rates and Tiered Pricing Components specified in this Contract as determined annually by the
91 Contracting Officer pursuant to this Contract;

92 (c) Omitted;

93 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized
94 representative acting pursuant to this Contract or applicable Reclamation law or regulation;

95 (e) "Contract Total" shall mean the average annual amount of water to which the
96 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

97 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
98 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto, which
99 may be modified from time to time in accordance with Article 35 of this Contract without amendment of this
100 Contract;

101 (g) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of

102 the Act of October 30, 1992 (106 Stat. 4706);

103 (g2) "District Engineer" shall mean the District Engineer, United States Army Corps of
104 Engineers, or his authorized representative;

105 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be delivered in
106 accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
107 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

108 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in Section
109 204 of the RRA, other than those lands exempt from acreage limitation under Federal Reclamation law;

110 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or
111 202(3) of the RRA, whichever is applicable;

112 (k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be
113 delivered in accordance with Section 204 of the RRA;

114 (l) "Irrigation Full Cost Water Rate" shall have the same meaning as "full cost" as that
115 term is used in paragraph (3) of Section 202 of the RRA;

116 (m) "Irrigation Water" shall mean water made available from the Project that is used
117 primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and
118 watering of livestock. Irrigation Water shall not include water used for purposes such as the watering of
119 landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered
120 to landholdings operated in units of less than five (5) acres unless the Contractor establishes to the
121 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a use

122 described in this subdivision of this Article;

123 (n) "Landholder" shall mean a party that directly or indirectly owns or leases nonexempt
124 land, as provided in 43 CFR 426.2;

125 (o) Omitted;

126 (p) "M&I Full Cost Water Rate" shall mean the annual rate, which, as determined by
127 the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I facilities in
128 service, including, O&M deficits funded, less payments, over such periods as may be required under
129 Federal Reclamation law with interest accruing from the dates such costs were first incurred plus the
130 applicable rate for the O&M of such Project facilities. Interest rates used in the calculation of the M&I Full
131 Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the
132 RRA;

133 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care,
134 control, operation, repair, replacement (other than Capital replacement), and maintenance of Project
135 facilities;

136 (r) Omitted;

137 (r2) "Other Water" shall mean water from the Project other than Irrigation Water as
138 described in subdivision (l) of this Article, which is used for a purpose that is considered to be an irrigation
139 use pursuant to State law such as the watering of landscaping or pasture for animals (e.g., horse) which are
140 kept for the personal enjoyment. For purposes of this Contract, Other Water shall be paid for at Rates and
141 Charges identical to those established for municipal and industrial water pursuant to the then current

142 Municipal and Industrial (M&I) Ratesetting Policy;

143

144 (r3) "Prior-Rights Water" shall mean that portion of the inflow to Hensley Lake which
145 flows through or is released from Hidden Dam in recognition of prior downstream Fresno River water rights
146 of the Contractor and others, subject to any necessary new water rights permit or permit revisions and in
147 accordance with any applicable agreements relating to the operation of the Hidden Unit and approved by
148 the Contracting Officer and the State Water Resources Control Board, as necessary;

149 (s) "Project" shall mean the Central Valley Project owned by the United States and
150 managed by the Department of the Interior, Bureau of Reclamation;

151 (t) "Project Contractors" shall mean all parties who have water service contracts for
152 Project Water from the Project with the United States pursuant to Federal Reclamation law;

153 (u) "Project Water" shall mean all water that is developed, diverted, stored, or
154 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the
155 terms and conditions of water rights acquired pursuant to California law;

156 (v) "Rates" shall mean the payments determined annually by the Contracting Officer in
157 accordance with the then current applicable water ratesetting policies for the Project, as described in
158 subdivision (a) of Article 7 of this Contract;

159 (w) Omitted;

160 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed successor, or
161 an authorized representative acting pursuant to any authority of the Secretary and through any agency of the
162 Department of the Interior;

163 (y) "Tiered Pricing Component" shall be the incremental amount to be paid for each
164 acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

165 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for use
166 by the Contractor at Hidden Dam, other than Prior Rights Water, and for pricing purposes shall consist of
167 24,000 acre-feet average annual supply;

168 (aa) Omitted;

169 (bb) Omitted; and

170 (cc) "Year" shall mean the period from and including March 1 of each Calendar Year
171 through the last day of February of the following Calendar Year.

172 TERM OF CONTRACT

173 2. (a) This Contract shall be effective March 1, 2001, through February 28, 2026. In the
174 event the Contractor wishes to renew the Contract beyond February 28, 2026, the Contractor shall submit
175 a request for renewal in writing to the Contracting Officer no later than two (2) years prior to the date this
176 Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of Irrigation Water to
177 the Contractor shall be governed by subdivision (b) of this Article.

178 (b) (1) Under terms and conditions of a renewal contract that are mutually
179 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time of
180 contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and subject to Federal
181 and State law, this Contract shall be renewed for a period of twenty-five (25) years.

182 (2) The conditions which must be met for this Contract to be renewed are: (i)
183 the Contractor has prepared a water conservation plan that has been determined by the Contracting Officer
184 in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria for evaluating
185 such plans established under Federal law; (ii) the Contractor is implementing an effective water conservation

186 and efficiency program based on the Contractor's water conservation plan as required by Article 26 of this
187 Contract; (iii) the Contractor is operating and maintaining all water measuring devices and implementing all
188 water measurement methods as approved by the Contracting Officer pursuant to Article 6 of this Contract;
189 (iv) the Contractor has reasonably and beneficially used the Project Water supplies made available to it and,
190 based on projected demands, is reasonably anticipated and expects fully to utilize for reasonable and
191 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal; (v) the
192 Contractor is complying with all terms and conditions of this Contract and all legal obligations of the
193 Contractor, if any, set forth in an enforceable court order, final judgment or settlement relating to the San
194 Joaquin River; and (vi) the Contractor has the physical and legal ability to deliver Project Water.

195 (3) The terms and conditions of the renewal contract described in subdivision
196 (b)(1) of this Article and any subsequent renewal contracts shall be developed consistent with the parties'
197 respective legal rights and obligations, and in consideration of all relevant facts and circumstances, as those
198 circumstances exist at the time of renewal, including, without limitation, the Contractor's need for continued
199 delivery of Project Water; environmental conditions affected by implementation of the Contract to be
200 renewed, and specifically changes in those conditions that occurred during the life of the Contract to be
201 renewed; the Secretary's progress toward achieving the purposes of the CVPIA as set out in Section 3402
202 and in implementing the specific provisions of the CVPIA; and current and anticipated economic
203 circumstances of the region served by the Contractor.

204 (c) Omitted.

205 (d) The Contracting Officer anticipates that by December 31, 2024, all authorized
206 Project construction expected to occur will have occurred, and on that basis the Contracting Officer agrees

207 by that date to allocate all costs that are properly assignable to the Contractor, and agrees further that, at
208 any time after such allocation is made, and subject to satisfaction of the conditions set out in this subdivision
209 of this Article, this Contract shall, at the request of the Contractor, be converted to a contract under
210 subsection (c)(1) and (d) of Section 9, of the Reclamation Project Act of 1939, subject to applicable
211 Federal law and under stated terms and conditions mutually agreeable to the Contractor and the Contracting
212 Officer. A condition for such conversion to occur shall be a determination by the Contracting Officer that,
213 account being taken of the amount credited to return by the Contractor as provided for under Reclamation
214 law, the remaining amount of construction costs assignable for ultimate return by the Contractor can
215 probably be repaid to the United States within the term of a contract under said subsection 9(c)(1) and (d).
216 If the remaining amount of costs that are properly assignable to the Contractor cannot be determined by
217 December 31, 2024, the Contracting Officer shall notify the Contractor, and provide the reason(s) why such
218 a determination could not be made. Further, the Contracting Officer shall make such a determination as
219 soon thereafter as possible so as to permit, upon request of the Contractor and satisfaction of the conditions
220 set out above, conversion to a contract under said subsection 9(c)(1) and (d). In the event such
221 determination of costs has not been made at a time which allows conversion of this Contract during the term
222 of this Contract or the Contractor has not requested conversion of this Contract within such term, the parties
223 shall incorporate in any subsequent renewal contract as described in Articles 2(b) a provision that carries
224 forth in substantially identical terms the provisions of this Article 2(d). In the event the Contracting Officer is
225 able to make a determination of the remaining amount of costs that are properly assignable to the Contractor
226 before December 31, 2024, the Contracting Officer shall do so at the earliest time he/she has such ability.

227 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

- 228 3. (a) During each Year, consistent with all applicable State water rights, permits, and
229 licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this Contract, the
230 Contracting Officer shall make available for delivery to the Contractor the entire quantity of Project Water
231 from Hidden Unit for irrigation purposes. The quantity of Water Delivered to the Contractor in accordance
232 with this subdivision shall be paid for pursuant to the provisions of Articles 4 and 7 of this Contract.
- 233 (b) Omitted.
- 234 (c) The Contractor shall utilize the Project Water in accordance with all applicable legal
235 requirements.
- 236 (d) The Contractor shall make reasonable and beneficial use of all Project Water or
237 other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking
238 programs, surface water storage programs, and other similar programs utilizing Project Water or other water
239 furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent
240 with applicable State law and result in use consistent with Reclamation law will be allowed; Provided, That
241 any direct recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted
242 pursuant to Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates
243 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity of
244 Delivered Water is demonstrated to be reasonable for such uses and in compliance with Reclamation law.
245 Groundwater recharge programs, groundwater banking programs, surface water storage programs, and
246 other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted
247 outside the Contractor's Service Area may be permitted upon written approval of the Contracting Officer,

248 which approval will be based upon environmental documentation, Project Water rights, and Project
249 operational concerns. The Contracting Officer will address such concerns in regulations, policies, or
250 guidelines.

251 (e) The Contractor shall comply with requirements applicable to the Contractor in
252 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
253 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within the
254 Contractor's legal authority to implement. The Contractor shall comply with the limitations or requirements
255 imposed by environmental documentation applicable to the Contractor and within its legal authority to
256 implement regarding specific activities. Nothing herein shall be construed to prevent the Contractor from
257 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion
258 or other environmental documentation referred to in this Article.

259 (f) Omitted.

260 (g) Omitted.

261 (h) The Contractor's right pursuant to Federal Reclamation law and applicable State
262 law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the term thereof
263 and any subsequent renewal contracts, as described in Article 2 of this Contract, during the terms thereof
264 shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract and any
265 renewals thereof. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose
266 shortages under Article 11 or subdivision (b) of Article 12 of this Contract or applicable provisions of any
267 subsequent renewal contracts.

268 (i) Project Water furnished to the Contractor pursuant to this Contract may be
269 delivered for purposes other than those described in subdivisions (m) and (r2) of Article 1 of this Contract
270 upon written approval by the Contracting Officer in accordance with the terms and conditions of such
271 approval.

272 (j) The Contracting Officer shall make reasonable efforts to protect the water rights
273 necessary for the Project and to provide the water available under this Contract. The Contracting Officer
274 shall not object to participation by the Contractor, in the capacity and to the extent permitted by law, in
275 administrative proceedings related to the Project Water rights; Provided, however, That the Contracting
276 Officer retains the right to object to the substance of the Contractor's position in such a proceeding.

277 TIME FOR DELIVERY OF WATER

278 4. Omitted.

279 RESERVOIR OPERATION--USE AND SALE OF WATER

280 4.1. (a) At the request of the Contractor, pursuant to the terms and conditions of this
281 Contract, the United States, acting through the District Engineer, shall store, regulate, and/or release all flows
282 of Fresno River water at the Hidden Unit subject to the regulation of the Hidden Unit for flood control, as
283 conclusively determined by the District Engineer, and further subject to Prior-Rights Water releases and the
284 maintenance of a minimum pool of ten thousand (10,000) acre-feet of water in Hensley Lake for
285 recreational and incidental uses.

286 (b) Project Water delivered to the Contractor pursuant to this Contract shall be used as
287 Irrigation Water or Other Water only and shall not be sold or otherwise disposed of for use outside the
288 Contractor's Service Area without the written approval of the Contracting Officer.

289 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

290 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract
291 shall be delivered to the Contractor at Hidden Dam.

292 (b) Omitted.

293 (c) The Contractor shall deliver Irrigation Water in accordance with any applicable land
294 classification provisions of Federal Reclamation law and the associated regulations. The
295 Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless approved in
296 advance by the Contracting Officer.

297 (d) All Water Delivered to the Contractor pursuant to this Contract shall be measured
298 and recorded with equipment furnished, installed, operated, and maintained by the United States at the point
299 or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party
300 to this Contract, the Contracting Officer shall investigate, or cause to be investigated the accuracy of such
301 measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of
302 time when accurate measurements have not been made, the Contracting Officer shall consult with the
303 Contractor prior to making a final determination of the quantity delivered for that period of time.

304 (e) The Contracting Officer shall be responsible for the control, carriage, handling, use,
305 disposal, or distribution of Project Water Delivered to the Contractor pursuant to this Contract beyond the
306 delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States,
307 its officers, employees, agents, and assigns on account of damage or claim of damage of any nature
308 whatsoever for which there is legal responsibility, including property damage, personal injury, or death
309 arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project

310 Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of
311 the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible
312 Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii)
313 willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns, including
314 any responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of its
315 officers, employees, agents, or assigns including any responsible Operating Non-Federal Entity; or (iv)
316 damage or claims resulting from a malfunction of facilities owned and/or operated by the United States or
317 responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating Non-Federal
318 Entity that owned or operated the malfunctioning facility(ies) from which the damage claim arose.

319 (f) The Contractor shall maintain a surface water measurement program satisfactory to
320 the Contracting Officer to provide for the operation of the Hidden Unit facilities without interference to
321 established rights including correlative rights easterly of the Eastside-Chowchilla Canal Bypass and keep
322 records of data obtained from such program satisfactory to the Contracting Officer.

323 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

324 6. (a) The Contractor has established a measurement program satisfactory to the
325 Contracting Officer, all surface water delivered for irrigation purposes within the Contractor's Service Area
326 is measured at each agricultural turnout. The water measuring devices or water measuring methods of
327 comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be
328 responsible for installing, operating, and maintaining and repairing all such measuring devices and
329 implementing all such water measuring methods at no cost to the United States. The Contractor shall use the

330 information obtained from such water measuring devices or water measuring methods to ensure its proper
331 management of the water, to bill water users for water delivered by the Contractor. Nothing herein
332 contained, however, shall preclude the Contractor from establishing and collecting any charges, assessments,
333 or other revenues authorized by California law. The Contractor shall include a summary of all its annual
334 surface water deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

335 (b) To the extent the information has not otherwise been provided, upon execution of
336 this Contract, the Contractor shall provide to the Contracting Officer a written report describing the
337 measurement devices or water measuring methods being used or to be used to implement subdivision (a) of
338 this Article and identifying the agricultural turnouts or alternative measurement programs approved by the
339 Contracting Officer, at which such measurement devices or water measuring methods are being used, and, if
340 applicable, identifying the locations at which such devices and/or methods are not yet being used including a
341 time schedule for implementation at such locations. The Contracting Officer shall advise the Contractor in
342 writing within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring
343 devices or water measuring methods identified in the Contractor's report and if the Contracting Officer does
344 not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor
345 that the measuring devices or methods are inadequate, the parties shall within sixty (60) days following the
346 Contracting Officer's response, negotiate in good faith the earliest practicable date by which the Contractor
347 shall

348 modify said measuring devices and/or measuring methods as required by the Contracting Officer to ensure
349 compliance with subdivision (a) of this Article.

350 (c) All new surface water delivery systems installed within the Contractor's Service
351 Area after the effective date of this Contract shall also comply with the measurement provisions described in
352 subdivision (a) of this Article.

353 (d) The Contractor shall inform the Contracting Officer and the State of California in
354 writing by April 30 of each Year of the annual volume of Irrigation Water and Other Water delivered within
355 the Contractor's Service Area during the previous Year.

356 (e) Omitted.

357 RATES AND METHOD OF PAYMENT FOR WATER

358 7. (a) The Contractor shall pay the United States as provided in this Article for 24,000
359 acre-feet of Project Water at Rates, Charges, and the Tiered Pricing Component established in accordance
360 with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-
361 existing ratesetting policy for M&I Water. Such ratesetting policies shall be amended, modified, or
362 superseded only through a public notice and comment procedure; (ii) applicable Reclamation law and
363 associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract. Payments
364 shall be made by cash transaction, wire, or any other mechanism as may be agreed to in writing by the
365 Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Components applicable to
366 the Contractor upon execution of this Contract are set forth in Exhibit "B", as may be revised annually.

367 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and
368 Tiered Pricing Components as follows:

369 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide
370 the Contractor an estimate of the Charges for Project Water that will be applied to the period October 1, of
371 the current Calendar Year, through September 30, of the following Calendar Year, and the basis for such
372 estimate. The Contractor shall be allowed not less than two (2) months to review and comment on such
373 estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall notify the
374 Contractor in writing of the Charges to be in effect during the period
375 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such
376 notification shall revise Exhibit "B."

377 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
378 make available to the Contractor an estimate of the Rates and Tiered Pricing Components for Project Water
379 for the following Year and the computations and cost allocations upon which those Rates are based. The
380 Contractor shall be allowed not less than two (2) months to review and comment on such computations and
381 cost allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the
382 Contractor with the final Rates and Tiered Pricing Components to be in effect for the upcoming Year, and
383 such notification shall revise Exhibit "B."

384 (c) Before March 1 and again before July 1 of each Year the Contractor shall pay to
385 the United States, at the Rates and Charges provided in subdivision (a) of this Article, for one-half (1/2) the
386 average annual quantity of Project Water of 24,000 acre-feet regardless of the quantity of Irrigation Water

387 and Other Water actually made available to the Contractor during the Year.

388 (d) Omitted.

389 (e) Omitted.

390 (f) Payments to be made by the Contractor to the United States under this Contract
391 may be paid from any revenues available to the Contractor.

392 (g) All revenues received by the United States from the Contractor relating to the
393 delivery of Project Water or the delivery of non-project water through Project facilities shall be allocated
394 and applied in accordance with Federal Reclamation law and the associated rules or regulations, and the
395 then current Project ratesetting policies for Irrigation Water or Other Water using the M&I ratesetting
396 policy.

397 (h) The Contracting Officer shall keep its accounts pertaining to the administration of the
398 financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards, so
399 as to reflect the application of Project costs and revenues. The Contracting Officer shall, each Year upon
400 request of the Contractor, provide to the Contractor a detailed accounting of all Project and Contractor
401 expense allocations, the disposition of all Project and Contractor revenues, and a summary of all water
402 delivery information. The Contracting Officer and the Contractor shall enter into good faith negotiations to
403 resolve any discrepancies or disputes relating to accountings, reports, or information.

404 (i) The parties acknowledge and agree that the efficient administration of this Contract
405 is their mutual goal. Recognizing that experience has demonstrated that mechanisms, policies, and
406 procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or for making and

407 allocating payments, other than those set forth in this Article may be in the mutual best interest of the parties,
408 it is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies, and
409 procedures for any of those purposes while this Contract is in effect without amending this Contract.

410 (j) (1) The Contractor shall make payment to the United States equal to the
411 applicable Tiered Pricing Component for all Water Delivered in excess of eighty (80%) percent of the
412 Contract Total before July 1 of each Year. The Tiered Pricing Component for the amount of Water
413 Delivered in excess of eighty (80%) percent of the Contract Total, but less than or equal to ninety (90%)
414 percent of the Contract Total, shall equal the one-half of the difference between the Rate established under
415 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate,
416 whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which exceeds
417 ninety (90%) percent of the Contract Total shall equal the difference
418 between (i) the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water
419 Rate or M&I Full Cost Water Rate, whichever is applicable.

420 (2) Subject to the Contracting Officer's written approval, the Contractor may
421 request and receive an exemption from such Tiered Pricing Components for Project Water delivered to
422 produce a crop which the Contracting Officer determines will provide significant and quantifiable habitat
423 values for waterfowl in fields where the water is used and the crops are produced; Provided, That the
424 exemption from the Tiered Pricing Components for Irrigation Water shall apply only if such habitat values
425 can be assured consistent with the purposes of CVPIA through binding agreements executed with or
426 approved by the Contracting Officer prior to use of such water.

427 (3) For purposes of determining the applicability of the Tiered Pricing
428 Components pursuant to this Article, Water Delivered shall include Project Water that the Contractor
429 transfers to others but shall not include Project Water transferred and delivered to the Contractor.

430 (k) For the term of this Contract, Rates under the respective ratesetting policies will be
431 established to recover only reimbursable “operation and maintenance” (including any deficits) and capital
432 costs of the Project, as those terms are used in the then-current Project ratesetting policies, and interest,
433 where appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
434 Project ratesetting policy. Changes of significance in practices which implement the Contracting Officer’s
435 ratesetting policies will not be implemented until the Contracting Officer has provided the Contractor an
436 opportunity to discuss the nature, need, and impact of the proposed change.

437 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the
438 Rates for Project Water transferred by the Contractor shall be the Contractor’s Rates adjusted upward or
439 downward to reflect the changed costs of delivery (if any) of the transferred Project Water to the
440 transferee’s point of delivery in accordance with the then applicable CVP Ratesetting Policy. If the
441 Contractor is receiving lower Rates and Charges because of inability to pay and is transferring Project
442 Water to another entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and
443 Charges for transferred Project Water shall be the Contractor’s Rates and Charges unadjusted for ability to
444 pay.

445 (m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting Officer
446 is authorized to adjust determinations of ability to pay every five (5) years.

447 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

448 8. The Contractor and the Contracting Officer concur that, as of the effective date of this
449 Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall have no
450 further liability therefor.

451 SALES, TRANSFERS, OR EXCHANGES OF WATER

452 9. (a) The right to receive Project Water provided for in this Contract may be sold,
453 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such
454 sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or
455 regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take
456 place without the prior written approval of the Contracting Officer, except as provided for in subdivision (b)
457 of this Article, and no such sales, transfers, or exchanges shall be approved absent compliance with
458 appropriate environmental documentation including but not limited to the National Environmental Policy Act
459 and the Endangered Species Act. Such environmental documentation should include, as appropriate, an
460 analysis of groundwater impacts and economic and social effects, including environmental justice, of the
461 proposed water transfers on both the transferor and transferee.

462 (b) Omitted.

463 (c) Omitted.

464 APPLICATION OF PAYMENTS AND ADJUSTMENTS

465 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
466 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of the

467 Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand
468 Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any amount of such
469 overpayment at the option of the Contractor, may be credited against amounts to become due to the United
470 States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole
471 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project
472 Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
473 days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in
474 response to the notice to the Contractor that it has finalized the accounts for the Year in which the
475 overpayment was made.

476 (b) All advances for miscellaneous costs incurred for work requested by the Contractor
477 pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the work has been
478 completed. If the advances exceed the actual costs incurred, the difference will be refunded to the
479 Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the
480 additional costs pursuant to Article 25 of this Contract.

481 TEMPORARY REDUCTIONS--RETURN FLOWS

482 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
483 requirements of Federal law and (ii) the obligations of the United States under existing contracts, or renewals
484 thereof, providing for water deliveries from the Project, the Contracting Officer shall make all reasonable
485 efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

486 (b) The Contracting Officer may temporarily discontinue or reduce the quantity of
487 Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection,
488 maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the
489 delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give the
490 Contractor due notice in advance of such temporary discontinuance or reduction, except in case of
491 emergency, in which case no notice need be given; Provided, That the United States shall use its best efforts
492 to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction
493 or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity
494 of Project Water which would have been delivered hereunder in the absence of such discontinuance or
495 reduction.

496 (c) The United States reserves the right to all seepage and return flow water derived
497 from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the Contractor's
498 Service Area; Provided, That this shall not be construed as claiming for the United States any right as
499 seepage or return flow being put to reasonable and beneficial use pursuant to this Contract within the
500 Contractor's Service Area by the Contractor or those claiming by, through, or under the Contractor.

501 CONSTRAINTS ON THE AVAILABILITY OF WATER

502 12. (a) Omitted.

503 (b) If there is a reduction in total water supply because of errors in physical operations
504 of the Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken
505 by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a) of Article 18

506 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees
507 for any damage, direct or indirect, arising therefrom.

508 UNAVOIDABLE GROUNDWATER PERCOLATION

509 13. To the extent applicable, the Contractor shall not be deemed to have delivered Irrigation
510 Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands are irrigated with
511 groundwater that reaches the underground strata as an unavoidable result of the delivery of Irrigation Water
512 by the Contractor to Eligible Lands.

513 RULES AND REGULATIONS

514 14. (a) The parties agree that the delivery of Irrigation Water or use of Federal facilities
515 pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the Reclamation
516 Reform Act of 1982 (43 U.S.C.390aa et seq.), as amended and supplemented, and the rules and
517 regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

518 (b) The terms of this Contract are subject to modification to comply with any settlement
519 entered into by the Contractor in NRDC v. Patterson, No. CIVS 88-1658-LKK-EM or,
520 should this Contract become subject to the subject matter jurisdiction of the court in NRDC v. Patterson, to
521 comply with the terms of any final order or judgment therein. Except as provided in this Contract, this
522 Contract does not add to the obligations of the parties, if any, relating to the San Joaquin River. This
523 Contract does not limit or detract from the obligations of the parties, if any, relating to the San Joaquin River.

524 WATER AND AIR POLLUTION CONTROL

525 15. The Contractor, in carrying out this Contract, shall comply with all applicable water and air
526 pollution laws and regulations of the United States and the State of California, and shall obtain all required
527 permits or licenses from the appropriate Federal, State, or local authorities.

528

QUALITY OF WATER

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16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to this

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Contract shall be operated and maintained to enable the United States to deliver Project Water to the

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Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act of August

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26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or

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other existing Federal laws. The United States is under no obligation to construct or furnish water treatment

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facilities to maintain or to improve the quality of Water Delivered to the Contractor pursuant to this

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Contract. The United States does not warrant the quality of Water Delivered to the Contractor pursuant to

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this Contract.

537

(b) The Operation and Maintenance of Project facilities shall be performed in such

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manner as is practicable to maintain the quality of raw water made available through such facilities at the

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highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall be

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responsible for compliance with all State and Federal water quality standards applicable to surface and

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subsurface agricultural drainage discharges generated through the use of Federal or Contractor facilities or

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Project Water provided by the Contractor within the Contractor's Service Area.

543

WATER ACQUIRED BY THE CONTRACTOR

544

OTHER THAN FROM THE UNITED STATES

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17. (a) Water or water rights now owned or hereafter acquired by the Contractor other

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than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be

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simultaneously transported through the same distribution facilities of the Contractor subject to the following:

548 (i) if the facilities utilized for commingling Irrigation Water and non-project water were constructed without
549 funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will
550 be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to
551 receive Irrigation Water must be established through the certification requirements as specified in the
552 Acreage Limitation Rules and Regulations (43 CFR
553 Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be
554 established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to
555 irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-project
556 water are/were constructed with funds made available pursuant to Federal Reclamation law, the non-project
557 water will be subject to the acreage limitation provisions of Federal Reclamation law, unless the Contractor
558 pays to the United States the incremental fee described in 43 CFR 426.15. In determining the incremental
559 fee, the Contracting Officer will calculate annually the cost to the Federal Government, including interest of
560 storing or delivering non-project water, which for purposes of this Contract shall be determined as follows:
561 The quotient shall be the unpaid distribution system costs divided by the total irrigable acreage within the
562 Contractor's Service Area. The incremental fee per acre is the mathematical result of such quotient times
563 the interest rate determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263). Such
564 incremental fee will be charged to each acre of excess or full cost land within the Contractor's Service Area
565 that receives non-project water through Federally financed or constructed facilities. The incremental fee
566 calculation methodology will continue during the term of this Contract absent the promulgation of a contrary
567 Reclamation-wide rule, regulation or policy adopted after the Contractor has been afforded the opportunity

568 to review and comment on the proposed rule, regulation or policy. If such rule, regulation or policy is
569 adopted it shall supersede this provision.

570 (b) Water or water rights now owned or hereafter acquired by the Contractor, other
571 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may be
572 stored, conveyed and/or diverted through Project facilities, subject to the completion of appropriate
573 environmental documentation, with the approval of the Contracting Officer and the execution of any contract
574 determined by the Contracting Officer to be necessary, consistent with the following provisions:

575 (1) The Contractor may introduce non-project water into Project facilities and
576 deliver said water to lands within the Contractor's Service Area, including Ineligible Lands, subject to
577 payment to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate
578 as determined by the CVP Ratesetting Policy and the RRA, each as amended, modified or superseded from
579 time to time. In addition, if electrical power is required to pump non-project water through the facilities, the
580 Contractor shall be responsible for obtaining the necessary power and paying the necessary charges
581 therefor.

582 (2) Delivery of such non-project water in and through Project facilities shall only
583 be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as determined by
584 the Contracting Officer; (ii) reduce the quantity or quality of water available to other Project water service
585 contractors; (iii) interfere with the delivery of contractual water entitlements to any other Project water
586 service contractors; or (iv) interfere with the physical maintenance of the Project facilities.

587 (3) Neither the United States nor the Operating Non-Federal Entity shall be

588 responsible for control, care or distribution of the non-project water before it is introduced into or after it is
589 delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the
590 United States and the Operating Non-Federal Entity, and their respective officers, agents, and employees,
591 from any claim for damage to persons or property, direct or indirect, resulting from Contractor's diversion
592 or extraction of non-project water from any source.

593 (4) Diversion of such non-project water into Project facilities shall be consistent
594 with all applicable laws, and if involving groundwater, consistent with any groundwater management plan for
595 the area from which it was extracted.

596 (5) After Project purposes are met, as determined by the Contracting Officer,
597 the United States and the Contractor shall share priority to utilize the remaining capacity of the facilities
598 declared to be available by the Contracting Officer for conveyance and transportation of non-project water
599 prior to any such remaining capacity being made available to non-Project contractors.

600 OPINIONS AND DETERMINATIONS

601 18. (a) Where the terms of this Contract provide for actions to be based upon the opinion
602 or determination of either party to this Contract, said terms shall not be construed as permitting such action
603 to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties,
604 notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and
605 appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each
606 opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of
607 Article 18 of this Contract is intended to or shall affect or alter the standard of judicial review applicable

608 under federal law to any opinion or determination implementing a specific provision of federal law embodied
609 in statute or regulation.

610 (b) The Contracting Officer shall have the right to make determinations necessary to
611 administer this Contract that are consistent with the provisions of this Contract, the laws of the United States
612 and of the State of California, and the rules and regulations promulgated by the
613 Secretary of the Interior. Such determinations shall be made in consultation with the Contractor to the
614 extent reasonably practicable.

615 COORDINATION AND COOPERATION

616 19. (a) In order to further their mutual goals and objectives, the Contracting Officer and the
617 Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project
618 Contractors, in order to improve the operation and management of the Project. The communication,
619 coordination, and cooperation regarding operations and management shall include, but not be limited to, any
620 action which will or may materially affect the quantity or quality of Project Water supply, the allocation of
621 Project Water supply, and Project financial matters including, but not limited to, budget issues. The
622 communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this
623 Contract. Each party shall retain exclusive decision making authority for all actions, opinion, and
624 determinations to be made by the respective party.

625 (b) Within one-hundred twenty (120) days following the effective date of this Contract,
626 the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet with
627 interested Project Contractors to develop a mutually agreeable, written Project-wide process, which may be

628 amended as necessary separate and apart from this Contract. The goal of this process shall be to provide,
629 to the extent practicable, the means of mutual communication and interaction regarding significant decisions
630 concerning Project operation and management on a
631 real-time basis.

632 (c) Omitted.

633 CHARGES FOR DELINQUENT PAYMENTS

634 20. (a) The Contractor shall be subject to interest, administrative and penalty charges on
635 delinquent installments or payments. When a payment is not received by the due date, the Contractor shall
636 pay an interest charge for each day the payment is delinquent beyond the due date. When a payment
637 becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover additional
638 costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or
639 more, the Contractor shall pay an additional penalty charge of six (6%) percent per year for each day the
640 payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt
641 collection services associated with a delinquent payment.

642 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in the
643 Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate
644 of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation Project Act of
645 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain
646 fixed for the duration of the delinquent period.

647 (c) When a partial payment on a delinquent account is received, the amount received
648 shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and
649 finally to the overdue payment.

650 EQUAL OPPORTUNITY

651 21. During the performance of this Contract, the Contractor agrees as follows:

652 (a) The Contractor will not discriminate against any employee or applicant for
653 employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative
654 action to ensure that applicants are employed, and that employees are treated during employment, without
655 regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to,

656 the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff
657 or termination, rates of payment or other forms of compensation; and selection for training, including
658 apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants
659 for employment, notices to be provided by the Contracting Officer setting forth the provisions of this
660 nondiscrimination clause.

661 (b) The Contractor will, in all solicitations or advertisements for employees placed by or
662 on behalf of the Contractor, state that all qualified applicants will receive consideration for employment
663 without discrimination because of race, color, religion, sex, or national origin.

664 (c) The Contractor will send to each labor union or representative of workers with
665 which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided
666 by the Contracting Officer, advising the said labor union or workers' representative of the Contractor's
667 commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies
668 of the notice in conspicuous places available to employees and applicants for employment.

669 (d) The Contractor will comply with all provisions of Executive Order
670 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the
671 Secretary of Labor.

672 (e) The Contractor will furnish all information and reports required by said amended
673 Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto,
674 and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of
675 Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

676 (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of
677 this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated,
678 or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government
679 contracts in accordance with procedures authorized in said amended Executive Order, and such other
680 sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rule, regulation,
681 or order of the Secretary of Labor, or as otherwise provided by law.

682 (g) The Contractor will include the provisions of paragraphs (a) through (g) in every
683 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of
684 Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be
685 binding upon each subcontractor or vendor. The Contractor will take such action with respect to any
686 subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such
687 provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor
688 becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such

689 direction, the Contractor may request the United States to enter into such litigation to protect the interests of
690 the United States.

691 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

692 22. (a) The obligation of the Contractor to pay the United States as provided in this
693 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be
694 distributed among the Contractor's water users and notwithstanding the default of individual water users in
695 their obligations to the Contractor.

696 (b) The payment of charges becoming due hereunder is a condition precedent to
697 receiving benefits under this Contract. The United States shall not make water available to the Contractor
698 through Project facilities during any period in which the Contractor may be in arrears in the advance
699 payment of water rates due the United States. The Contractor shall not furnish water made available
700 pursuant to this Contract for lands or parties which are in arrears in the advance payment of water rates
701 levied or established by the Contractor.

702 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
703 obligation to require advance payment for water rates which it levies.

704 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

705 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
706 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
707 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as
708 with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior
709 and/or Bureau of Reclamation.

710 (b) These statutes require that no person in the United States shall, on the grounds of
711 race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or
712 be otherwise subjected to discrimination under any program or activity receiving financial assistance from the
713 Bureau of Reclamation. By executing this Contract, the Contractor agrees to immediately take any
714 measures necessary to implement this obligation, including permitting officials of the United States to inspect
715 premises, programs, and documents.

716 (c) The Contractor makes this agreement in consideration of and for the purpose of
717 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
718 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including

719 installment payments after such date on account of arrangements for Federal financial assistance which were
720 approved before such date. The Contractor recognizes and agrees that such Federal assistance will be
721 extended in reliance on the representations and agreements made in this Article, and that the United States
722 reserves the right to seek judicial enforcement thereof.

723 PRIVACY ACT COMPLIANCE

724 24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the
725 Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in
726 maintaining Landholder acreage certification and reporting records, required to be submitted to the
727 Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96 Stat.
728 1266), and pursuant to 43 CFR 426.18.

729 (b) With respect to the application and administration of the criminal penalty provisions
730 of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible for maintaining
731 the certification and reporting records referenced in (a) above are considered to be employees of the
732 Department of the Interior. See 5 U.S.C. 552a(m).

733 (c) The Contracting Officer or a designated representative shall provide the Contractor
734 with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation
735 Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior, Reclamation-31)
736 which govern the maintenance, safeguarding, and disclosure of information contained in the Landholder's
737 certification and reporting records.

738 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
739 Reclamation to be the System Manager who shall be responsible for making decisions on denials pursuant to
740 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to
741 grant requests by individuals for access to their own records.

742 (e) The Contractor shall forward promptly to the System Manager each proposed
743 denial of access under 43 CFR 2.64; and each request for amendment of records filed under
744 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with
745 information and records necessary to prepare an appropriate response to the requester. These requirements
746 do not apply to individuals seeking access to their own certification and reporting forms filed with the
747 Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy Act as a basis for the
748 request.

749 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

770 Contract so long as the Contractor diligently works with the Contracting Officer to obtain such
771 determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing
772 its water conservation and efficiency program in accordance with the time schedules therein.

773 (b) Omitted.

774 (c) The Contractor shall submit to the Contracting Officer a report on the status of its
775 implementation of the water conservation plan on the reporting dates specified in the then existing
776 conservation and efficiency criteria established under Federal law.

777 (d) At five (5) -year intervals, the Contractor shall revise its water conservation plan to
778 reflect the then current conservation and efficiency criteria for evaluating water conservation plans
779 established under Federal law and submit such revised water management plan to the Contracting Officer
780 for review and evaluation. The Contracting Officer will then determine if the
781 water conservation plan meets Reclamation's then current conservation and efficiency criteria for evaluating
782 water conservation plans established under Federal law.

783 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall be
784 described in the Contractor's water conservation plan.

785 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

786 27. Except as specifically provided in Article 17 of this Contract, the provisions of this Contract
787 shall not be applicable to or affect non-project water or water rights now owned or hereafter acquired by
788 the Contractor or any user of such water within the Contractor's Service Area. Any such water shall not be
789 considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or

790 curtailing any rights which the Contractor or any water user within the

791 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
792 Reclamation law.

793 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

794 28. Omitted.

795 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

796 29. The expenditure or advance of any money or the performance of any obligation of the
797 United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of
798 appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract.
799 No liability shall accrue to the United States in case funds are not appropriated or allotted.

800 BOOKS, RECORDS, AND REPORTS

801 30. (a) The Contractor shall establish and maintain accounts and other books and records
802 pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial
803 transactions, water supply data, and Project land and right-of-way agreements; the water users' land-use
804 (crop census), land ownership, land-leasing and water use data; and other matters that the Contracting
805 Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such
806 date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations,
807 each party to this Contract shall have the right during office hours to examine and make copies of the other
808 party's books and records relating to matters covered by this Contract.

809 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books, records,
810 or other information shall be requested from the Contractor by the Contracting Officer unless such books,
811 records, or information are reasonably related to the administration or performance of this Contract. Any
812 such request shall allow the Contractor a reasonable period of time within which to provide the requested
813 books, records, or information.

814 (c) Omitted.

815 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

816 31. (a) The provisions of this Contract shall apply to and bind the successors and assigns of
817 the parties hereto, but no assignment or transfer of this Contract or any right or interest therein shall be valid
818 until approved in writing by the Contracting Officer.

819 (b) The assignment of any right or interest in this Contract by either party shall not
820 interfere with the rights or obligations of the other party to this Contract absent the written concurrence of
821 said other party.

822 (c) The Contracting Officer shall not unreasonably condition or withhold approval of
823 any proposed assignment.

824 SEVERABILITY

825 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii) a
826 person or entity that receives Project Water from a party to a Project contract, nor (iii) an association or
827 other form of organization whose primary function is to represent parties to Project contracts, brings an
828 action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in
829 this Contract and said person, entity, association, or organization obtains a final court decision holding that
830 such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in
831 support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days
832 of the date of such final court decision identify by mutual agreement the provisions in this Contract which
833 must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s).

834 The time periods specified above may be extended by mutual agreement of the parties. Pending the
835 completion of the actions designated above, to the extent it can do so without violating any applicable
836 provisions of law, the United States shall continue to make the quantities of Project Water specified in this

837 Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be
838 legally invalid or unenforceable in the final court decision.

839 RESOLUTION OF DISPUTES

840 33. Should any dispute arise concerning any provisions of this Contract, or the parties' rights
841 and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to
842 the Contractor commencing any legal action, or the Contracting Officer referring any matter to Department
843 of Justice, the party shall provide to the other party thirty (30) days' written notice of the intent to take such
844 action; Provided, That such notice shall not be required where a delay in commencing an action would
845 prejudice the interests of the party that intends to file suit. During the thirty (30) -day notice period, the
846 Contractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
847 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor
848 or the United States may have.

849 OFFICIALS NOT TO BENEFIT

850 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
851 Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as
852 other water users or landowners.

853 CHANGES IN CONTRACTOR'S SERVICE AREA

854 35. (a) While this Contract is in effect, no change may be made in the Contractor's Service
855 Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
856 except upon the Contracting Officer's written consent.

857 (b) Within thirty (30) days of receipt of a request for such a change, the Contracting
858 Officer will notify the Contractor of any additional information required by the Contracting Officer for

859 processing said request, and both parties will meet to establish a mutually agreeable schedule for timely
860 completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in
861 the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay
862 for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which
863 the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or
864 licenses. In addition, the Contracting Officer shall comply with the National Environmental Policy Act and
865 the Endangered Species Act. The Contractor will be responsible for all costs incurred by the Contracting
866 Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

867 FEDERAL LAWS

868 36. By entering into this Contract, the Contractor does not waive its rights to contest the validity
869 or application in connection with the performance of the terms and conditions of this Contract of any Federal
870 law or regulation; Provided, That the Contractor agrees to comply with the terms and conditions of this
871 Contract unless and until relief from application of such Federal law or regulation to the implementing
872 provision of the Contract is granted by a court of competent jurisdiction.

873 NOTICES

874 37. Any notice, demand, or request authorized or required by this Contract shall be deemed to
875 have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area
876 Manager, South-Central California Area Office, 1423 N Street, Fresno, California 92721, and on behalf of
877 the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Madera
878 Irrigation District, 12152 Road 28 1/4, Madera, California 93637. The designation of the addressee or the
879 address may be changed by notice given in the same manner as provided in this Article for other notices.

CONFIRMATION OF CONTRACT

880

881 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a decree
882 of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The
883 Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and
884 all pertinent supporting records of the court approving and confirming this Contract, and decreeing and
885 adjudging it to be lawful, valid, and binding on the Contractor.

EXHIBIT A

[Map or Description of Service Area]

Contract No.14-06-200-4020A- LTR1

EXHIBIT B
[Initial Rates and Charges]